

DEPARTMENT OF THE AIR FORCE
DIRECTORATE OF SPECIAL PROJECTS (OSAF)
AF UNIT POST OFFICE, LOS ANGELES, CALIFORNIA 90045



REPLY TO
ATTN OF: SP-1

27 April 1966



SUBJECT: Request for Authority to Use Special Incentive Features

TO: SAFRD (Dr Flax)

1. Because of the extremely critical nature of Special Projects Programs, I believe it necessary to offer the contractors the highest possible incentive to perform. Accordingly, I plan to negotiate all critical contracts using a special incentive approach tailored to fit these programs rather than the conventional multiple incentive formula. A description of the incentive approach I plan to use is attached, entitled "A Specialized Incentive Structure for Satellite Projects", Ref No SP 142866, (Atch 1).

2. In December I obtained full agreement with Hilly Paige on the approach described in para 4, and negotiated a supplemental agreement incorporating this incentive structure into my basic contract with his company. I have subsequently reached agreement with [redacted] on the variation described in para 6.b. for a major follow-on contract, and have reached substantial agreement with [redacted] along the lines of the illustration in para 6.e.

3. I am convinced that this approach will result in attaining and maintaining better performance and is in the best interest of the government. Although it has required my direct negotiation with top company management to obtain agreement, the success I have had in my efforts so far has convinced me that the concept can be implemented on all of my programs, and I plan to do so on a systematic basis. However, while the overall concept is clearly within the intent of incentive contracting as outlined, for instance in the DOD Incentive Contracting Guide, it has become clear that some provisions or inferences of the ASPR can be interpreted to either prevent some of the proposed features or require time consuming justification and approvals on an individual basis. To apply the proposed concept without such continuing actions, I am advised that authorization to deviate from several provisions of the ASPR will be required. I attach a summary of these ASPR conflicts for illustration (Atch 2).

50X1

4. Several urgent procurement actions are being delayed pending resolution of this question, including the matter of changes to Hilly Paige's contract and the conclusion of the other two contracts mentioned in para 2. Your assistance is solicited in obtaining the approval of Secretary Ignatius to apply the proposed concept to SAFSP programs and to deviate from such provisions of ASPR and related regulations as might be in conflict therewith.



JOHN L MARTIN, JR
Brigadier General, USAF
Director

2 Atch

1. Doc, "A Spec Incent Structure for Sat Proj" Ref No SP 142866
2. Summary of ASPR Conflicts

A SPECIALIZED INCENTIVE CONTRACT STRUCTURE FOR SATELLITE PROJECTS

1. Introduction. This paper describes the overall rationale and outlines the individual features of an incentive contract structure for satellite projects. This structure requires no increase in the maximum fee possible under current conventional incentive practice, but, by a specialized arrangement of the basis of fee calculation, places maximum incentive upon the achievement of acceptable flight performance while simultaneously insuring responsible financial and schedule management. The plan is described as it applies to contracts for satellite vehicles, but the rationale is applicable to other aspects of satellite projects, as is outlined in paragraph 6. It is intended for satellite projects for which continuing changes are characteristic and for which prompt contractor response is essential, which, together with other circumstances, dictate the use of cost-plus-incentive-fee type contracts.

2. Objectives. While this specialized approach is well suited to the general requirements of all satellite projects, it is particularly addressed to certain additional characteristics of some satellite projects:

a. While, in all satellite projects, the achievement of satisfactory orbital performance is desired, for some projects the continuing achievement of this performance, repetitively, on pre-determined schedule, and in the face of continuing changes, is an absolute essential. For such projects, no realizable dollar penalty to the contractor for failure of his product to perform can adequately compensate the government for failure to obtain the desired results from the scheduled flight. It is therefore essential that the incentive structure of such contracts be designed to assure the maximum effort on behalf of the contractor to obtain the full performance on each flight.

b. Because of very long lead times for complex satellite vehicles, and extensive investment in associated specialized facilities, the government does not have, in practice, an acceptable option of simply changing contractors if the performance of the vehicles deteriorates. Typically, from eighteen months to two years would be required to change vehicle contractors on complex satellite projects, and, during this time, the deficiency which would prompt

such action would continue unless solved by the original contractor. Although the government could take other actions against the unsatisfactory contractor, none of these would compensate for the period of time during which scheduled flight performance is not obtained to an acceptable degree. It is imperative, therefore, that the terms of the contracts for such projects provide the maximum incentive to the contractor to achieve and to maintain fully acceptable flight performance.

c. The actual cost to the government of flying such complex satellite vehicles far exceeds the pro-rata cost of the individual vehicle or component. Typically, the net cost of a single flight of a complex satellite project with relatively frequent flights is on the order of twelve to fourteen million dollars per flight. Yet the entire satellite vehicle may represent only about two million of this cost. For such projects, the unit of measurement in all matters relating to financial management must therefore be the cost of the loss of the entire flight, not simply the cost of the vehicle or component which was produced under the contract in question. Cost savings through manufacturing shortcuts which increase, in any way, the risk of flight failure must be balanced against the potential cost of the entire flight. And no cost saving by any means is an acceptable substitute for failure to perform on orbit as scheduled. It is therefore imperative that the contracts for such projects provide cost incentive adequate to insure responsible financial management without detracting from the necessary emphasis on orbital performance and without providing for any way in which any failure to perform can be offset by spending less than the contracted amount.

3. Overall Approach. In order for an incentive structure to meet the objectives outlined above, it must insure that the contractor will exert extra care because of this structure. If the incentive provisions of the contract mean nothing more than a task for the contracting officers - a way of arriving at a mutually acceptable pre-negotiated fee - then the incentive provisions will have little if any real effect upon the contractor's subsequent performance. In order to have the desired effect, the "word must get to the bird" -- the people who work on all aspects of the entire undertaking must be conscious of the incentive and must do their work with more care and quality because of it. For this reason, the incentive plan should be relatively simple and, in particular, the key points must be easily understood by all affected contractor personnel as imperatives to which they must respond. These, and the previously noted considerations lead to the following overall approach to such an incentive structure:

a. The achievement of satisfactory performance on orbit is of paramount

importance, and the only way in which the contractor can earn any fee.

b. The achievement of this performance must be attained under responsible financial management; therefore, the contractor must share overruns by deducting fee from that otherwise earned. (No fee is paid for underruns, since any fee so paid would necessarily reduce the maximum fee which could be paid for performance and would to some extent emphasize cost reduction at the expense of maximum emphasis on performance. Maximum performance within contracted costs is the financial goal.)

c. The achievement of this performance on a pre-determined schedule is also an objective, therefore the contractor must pay a penalty for lateness by deducting fee from that otherwise earned.

d. The achievement of maximum performance is an essential objective; therefore, for each flight, the maximum incentive will be placed upon the attainment of maximum performance, and the median or average fee will require better than average performance.

e. The incentive must be applied so that, regardless of performance which has been obtained on previous flights, there is always a maximum incentive for each subsequent flight to be one hundred percent successful.

f. The relationship between the fee that can be earned by performance and the fee that can be lost by failure to meet schedule and/or poor financial management must be selected to retain the desired balance between these objectives, so that schedules and costs are controlled effectively, but do not become dominant over, or in any manner counterbalance, poor orbital performance.

4. Incentive Structure. A typical application of this incentive philosophy to a satellite vehicle contract will include the following provisions (variations to this approach are discussed later in paragraph 6 and the manner of handling changes in paragraph 5):

a. Performance

(1) As noted previously, this is the only way that the contractor can earn any fee (although he can lose fee on costs and schedules). To provide maximum incentive, the maximum fee is set at the maximum normally allowed

for cost-plus type contracts, that is, 15% of the target cost of the contract. The maximum performance fee that can be earned by each vehicle under the contract is therefore:

$$\text{Maximum Performance fee (\$)} = \frac{15\% \times \text{target cost}}{\text{No of vehicles}} \\ \text{(per vehicle)}$$

The actual fee will depend upon the performance attained by each vehicle; it may vary from the maximum shown above to a minimum of zero, and is determined as outlined in the following subparagraphs.

(2) For the purpose of determining performance fee, the unit of measurement of orbital performance is the number of revolutions (revs) in orbit which are satisfactorily completed, defined as the number of revs completed prior to the occurrence of a "critical event". For this purpose, a specific list of such "critical events" is compiled and made a part of the contract, including the method of determination (telemetry, analysis, etc) along with the acceptable bounds for data so used. While the critical event list does not contain 100% of the failures which can occur, it does contain all of those which can reasonably be anticipated and which can be determined by telemetry or analysis based upon telemetry (or physical recovery).

(3) The performance score of each vehicle is then computed on the basis of 100 points for maximum performance and zero points for unacceptable performance. Actual performance equal to that planned earns a score of 100 points; actual performance equal to 50% (or less) of that planned earns a score of zero. The full range of 100 points is distributed linearly between the extremes of 50% and 100% of the planned lifetime of the flight, with the median fee of 7.5% thus corresponding to a point score of 75, which requires actual performance equal to 75% of the planned performance. This relationship is expressed in the following simple formula by means of which the performance score of each individual vehicle is computed, based upon its individual flight performance:

$$\text{Performance score} = 2 \left[100 \left(\frac{a}{p} \right) - 50 \right]$$

where: a = number of revs completed prior to occurrence of a critical event

p = number of revs planned for the flight

and $\frac{a}{p}$ is greater than .5 (the performance score is zero for .5 and all smaller values)

(4) The actual performance fee earned by each vehicle is then determined as follows:

$$\text{Actual fee (\$)} = \text{Maximum fee (\$)} \times \frac{\text{Performance score}}{100}$$

Where the maximum fee is that calculated as described in subparagraph (1) above,

$$\text{or: Maximum fee per vehicle} = \frac{15\% \times \text{target cost}}{\text{no of vehicles}}$$

(5) The following table summarizes the results of the above formulae for varying degrees of orbital success:

If ratio of actual to planned performance ($\frac{a}{p}$) is:	then performance score is:	and the performance fee is:
.5	0	0%
.75	50	7.5%
.80	60	9.0%
.95	90	13.5%
1.0	100	15%

(6) It should be noted that the simple formulae described above result in a median fee of 7.5% payable for 75% performance, so that 7.5% may be said to be the target fee and 75% may be said to represent par performance. However, these terms are only figures of speech in this incentive structure; it would be equally correct to call the target fee 15% and par performance as 100%. The actual fee is determined by the performance of each vehicle; it may vary from a maximum of 15% (of its pro-rata share of the target cost) to a minimum of zero.

b. Cost

(1) To achieve the necessary financial management under the terms outlined previously, the contract will provide for penalties for overruns, with these penalties to come from the fees otherwise earned by performance. To

maintain the desired balance between performance and cost, as described previously, the maximum penalty is set at 9% of the target cost (in contrast to 15% maximum fee that can be earned by maximum performance.)

(2) The maximum penalty of 9% for overrun is assessed in two sharing ratios, as follows. Up to a fee penalty of 4.5% of the target cost, the sharing is 80/20. The contractor's share of 20% would reach this limit of 4.5% of the target cost at an overrun of 22.5%. Up to an additional fee penalty of 4.5%, the sharing is 70/30, which additional penalty applies for an additional 15% overrun. In summary, the contractor shares overruns at 80/20 up to 22.5% overrun, then at 70/30 up to an additional 15% overrun; he is liable for overrun fee penalties up to a total overrun of 37.5%, and he can lose up to 9% of the target cost in such fee penalties, all of which must come from fees earned on the basis of the performance criteria previously discussed.

(3) While the dollar value of individual vehicle performance is calculated on a pro-rata basis, and shown in the contract accordingly, the penalties for costs are not allocable to individual vehicles except on an after-the-fact basis, so the cost penalties pertain to the target cost of the entire contract. Accordingly, regardless of how well the contractor has done on performance, schedule, or cost, there is always a high incentive to exert close financial control, since loss of such control even near the end of the contract could wipe out considerable fees earned by the performance of previous vehicle flights.

c. Schedule

(1) While it is important to maintain a pre-determined schedule, there is no net value to the government in the contractor delivering the vehicles ahead of schedule. The incentive on schedule is therefore a negative incentive. To maintain the desired perspective, the maximum schedule penalty is set at 0.5% of the target cost, and pro-rated as a specific amount to each vehicle in the contract. To place maximum incentive on holding schedules, this pro-rated maximum amount for each vehicle is assessed at a fixed rate of \$2000 per day of variance from the contract schedule.

(2) The basis of delivery is specified as the completion of the overall test on the basis of which the government "buys" or accepts the vehicle (executes form DD 250). Typically this is an extensive, electrically mated systems performance test, conducted at the launch base or just prior to shipment to the base.

d. Savings Clauses. The contract also contains savings clauses covering the following provisions:

(1) Notwithstanding any other provisions, the maximum fee under the contract shall not be more than 15% of the target cost, and the minimum shall not be less than zero.

(2) Notwithstanding the performance fee computed on the basis of the critical event list, as previously described, whenever the contracting officer is able to determine after completion of the flight that the actual degradation to the desired performance was less than computed, then he will award the contractor the higher score based upon such unilateral post flight determination.

(3) The planned performance used in the performance computations shall not exceed the maximum orbital lifetime called for in the contract.

(4) Whenever a flight fails without this contractor having an opportunity to perform, as in the case of failure due to another contractor's product, such as a booster failure, for instance, then the performance score allocated to such flight shall be awarded after completion of the contract and shall be equal to the average performance score of all vehicles on all flights on which this contractor did have an opportunity to perform.

5. Changes. The conventional approach to changes, considering each change as a separate contract, evaluating the risks, etc., on an individual basis, and arriving at a separately determined fee structure for each change, is fundamentally incompatible with the objectives of the incentive structure described herein. To consider each change in this manner would be to consider it out of context with the basic contract of which the change will become a part. While the change itself may be relatively simple, and, taken out of context with the overall contract, involve seemingly little risk, in actuality any change can cost the entire flight, and thus any change involves some added risk to the entire flight. Changes provide an opportunity for schedule slippage, for performance degradation or failure due to workmanship or procedure involved in the change, and also provide opportunity for additional overruns since the overall costs are increased. Obviously certain provisions must be made to insure that changes do not increase the fee payable for previous flights not affected by the change. However, with the provision of such safeguards, it is axiomatic that the overall approach to changes to an incentive contract as described herein be the same as the approach to the basic contract. In this regard it should be noted that this overall approach does not pre-determine the fee to be paid; the fee to be paid is determined by the individual performance of each vehicle, less penalties for cost and schedule variance. The overall approach pre-determines only the

specific relationships of the vehicle performance and cost and schedule variances to the fee; in practice, this fee may be as high as 15%, but it may be as low as zero. Applying this same philosophy to changes means that the fee for any given change could be as high as 15% of the target cost of the change, but it also means that the fee for such change could be zero, even for reasons unrelated to the change. On balance, the inclusion of changes within the same incentive structure described herein for the basic contract is fully consistent with the overall objectives described previously; for complex satellite projects which involve frequent changes throughout the life of the basic contract such inclusion is imperative in order to attain these objectives. The inclusion of changes is easily handled by slight modification of the procedure already outlined for the basic contract, as described below:

a. Performance

(1) The maximum performance fee is described in paragraph 4a(1) as:

$$\text{Maximum Performance fee (\$)} = \frac{15\% \text{ target cost}}{\text{No of vehicles}} \\ \text{(per vehicle)}$$

For changes, the additional maximum performance fee, to be added to each vehicle affected by the change, is determined as follows:

$$\text{Maximum additional Performance Fee due to change (per vehicle affected)} (\$) = \frac{15\% \times \text{target cost of change}}{\text{No of vehicles affected by the change}}$$

This additional increment of maximum performance fee is added to the maximum fee already allocated to this and other affected vehicles under the terms of the basic contract. Thus, the inclusion of a change involves changing the maximum performance fee that all vehicles affected by the change can earn.

(2) All other performance calculations are unaffected by the change. The actual fee earned is determined in the same manner outlined in par 4a(4):

$$\text{Actual fee (\$)} = \text{Maximum fee (\$)} \times \frac{\text{Performance score}}{100}$$

The effect of the change is included in the maximum fee used in the above equation. This figure reflects only the changes applicable to each particular

vehicle, and since performance is the only method by which any fee can be earned, computation in this simple manner completely precludes subsequent changes affecting the fee paid for previous flights.

b. Cost

(1) The target cost of all changes comes under the full incentive structure of the basic contract, in both sharing ratios and maximum fee penalties.

(2) To insure early definitization of changes, the basic contract contains a clause establishing a reasonably low limit on the percentage of the cost of the change which may be incurred prior to submission of the contractor's cost proposal in accordance with the changes clause. The cost proposal must be submitted prior to incurring costs beyond this limit in order for the same terms as the basic contract to be applicable to the change. Otherwise an equitable adjustment will be negotiated on an individual basis.

c. Schedule. The effect of changes upon schedules is taken into account when changes are introduced, through the means of identifying the vehicles with which the change becomes effective. In all other respects, the change comes under the full schedule incentive provisions of the basic contract. That is, each vehicle to which the change is applicable can result in an additional maximum penalty for schedule variance of:

$$\text{Additional maximum penalty (per vehicle)} = \frac{0.5\% \times \text{target cost of change}}{\text{No of vehicles affected by the change}}$$

6. Variations. The overall incentive approach described above may be varied in implementation without changing the basic philosophy. The following examples illustrate such variation.

a. Variation in target fee. As noted in paragraph 4a(6), the terms "target fee" and "par" are only figures of speech in this incentive structure, since under the formulae described the same actual fee is paid for the same actual performance, regardless of the point in the performance range that is considered par and regardless of the fee (between 0 and 15%) that is considered the target. The only specific meaning that can be given to the term "target fee" in this approach is that funds based upon whatever is selected as the target fee must be put on the original contract; however, the amount paid is determined by the performance attained, regardless of the fee considered "target", in the same way that the fee is paid for performance which exceeds par on a conventional incentive approach.

The target fee may arbitrarily be selected at the median of 7.5%, corresponding to 75% performance. Or, to provide additional psychological incentive, it may be selected higher, as for instance, 9%, which corresponds to 80% performance. In all cases, however, the maximum remains 15% and the minimum is zero.

b. Negative Performance Incentive. To provide the maximum psychological incentive, while paying exactly the same fee for the same performance obtained, the "target fee" may be selected as the maximum fee (i. e. , 15%) and all scoring carried out on a negative basis. This requires no change in the formulae previously described. The performance score is computed exactly as described in paragraph 4, and the actual fee is also computed in the same manner previously described:

$$\text{Actual fee \$} = \text{Maximum fee} \times \frac{\text{perf score}}{100}$$

(which is also
now the "target")

The "target" fee is thus reduced by the performance score of each flight, as shown. This method requires the full 15% fee to be put on the initial contract, but it pays exactly the same amount for the same performance as the approach described in paragraph 4. Its advantage is psychological; through this method the contractor's internal management perspective is changed in the following way for, say, a situation in which the vehicles on a certain project have attained an 80% performance (corresponding to a performance fee of 9%) with no variance in costs or schedules: If the incentive formula is described as 7.5% target fee, with a + 7.5% fee swing over the 50%-100% performance region previously discussed, then the management can refer to this work as "meeting par, and, in addition, earning 1.5% extra fee for the company." If the same incentive formula is described as 15% target fee, with a -15% fee swing over the same performance region, then the management can refer to the same work as "costing the company 6% penalty for performance deficiencies." The money paid is the same; this method offers, at no cost, additional psychological assistance in insuring that the "word gets to the bird."

c. Minimum Acceptable Performance. The minimum acceptable performance point may be set at a value higher than the 50% discussed in paragraph 4, with the full 0-15% fee distributed over the reduced performance range between this point and 100%. This variation is particularly well suited for repetitive buys of reasonably mature systems, instead of reducing the fee structure; it counters the reduction in risk without reducing the emphasis on continued maximum performance.

d. Cost sharing ratios. The cost sharing ratios may be varied with the risks associated with the individual project. For instance, the initial sharing of 80/20, as discussed in paragraph 4, may be set at 95/05 or 90/10 for the initial buy of a new project, with appropriate progressive increases; in follow-on contracts it may be progressively increased to 80/20, 70/30, 50/50, etc., consistent with the degree to which the project has matured. However, the relationship of the maximum fee which can be lost and the maximum fee that can be earned through performance must be kept such that the emphasis is never taken off the necessity of attaining and maintaining maximum performance in orbit.

e. Applications. Although the typical illustrations described in this paper have referred to contracts for satellite vehicles, the basic incentive approach is applicable to all major aspects of satellite projects, including major components, with only slight variations to suit the particular item in question. For example, assume that a complex command and control system is bought under separate government contract and furnished on a GFE basis to the vehicle contractor in a complex satellite project. The command and control system may be essential for the entire systems integration and check-out process which may require it to be fully operational for, say, two or three months after government acceptance but prior to launch. While failure of such a system during this pre-launch period would not cause loss of the flight, it would cause considerable delays in schedules and increased overall project costs through these delays. In such a case, the approach described in paragraph 4 may be varied to fit the situation, either by adding penalties for failures during the pre-launch phase (such as specific penalties for each failure requiring return of components to the factory for repair, etc) or by defining the performance period to include the pre-launch phase as well as the orbital phase, with the 100 possible performance points appropriately divided between these two phases. Obviously, in such an instance, the contract would require an active lifetime equal to that planned for such pre-launch use plus the maximum planned orbital lifetime.

7. Summary. The incentive structure described herein meets the objectives outlined in paragraphs 1 and 2. It is flexible and adaptable to all major aspects of complex satellite projects. It provides maximum incentive to attain and maintain the highest levels of performance, yet it retains firm financial control through substantial penalty provisions for overruns, and a reasonable penalty provision for schedule variance. The contractor has the opportunity and the incentive to make the maximum fee; the government has increased probability of getting the best possible performance at the contracted price, under conditions which are fully compatible with prompt response to contract changes. The approach does require deviations to conventional incentive procedure as outlined in ASPR, such as the use of weighted guidelines, the use of one-way fee swings instead of \pm swings, the use of the same incentive

formulae for changes, etc. Yet it is fully consistent with the basic objectives of incentive contracting. It justifies these deviations by providing an incentive structure specifically tailored for the particular applications outlined in paragraphs 1 and 2, and approaches, for these applications, the ultimate objective of overall incentive arrangements that provide a high possibility of maximum performance achievement, on a continuing, scheduled basis, within a close range of cost probability.

ATTACHMENT 2

SUMMARY OF ASPR CONFLICTS

1. ASPR 1-109.3. Deviation Affecting More Than One Contractor or Contract

Deviations pertaining to more than one contractor or contract must be approved in advance by Assistant Secretary of Defense (Installations and Logistics) or by unanimous approval of ASPR Committee which constitutes approval of the Assistant Secretary. This approval is required since the referenced incentive concept will be applied to more than one contractor.

2. ASPR 3-405.4. Cost-Plus-Incentive-Fee Contract

Definition of a CPIF contract contained in this paragraph does not precisely fit the referenced incentive plan in that it describes a cost formula which recognizes "increases in fee above target fee when total allowable costs are less than target costs." The referenced plan recognizes only a decrease from target fee in the event of an overrun.

3. ASPR 3-407.2. Contracts with Performance Incentives

The description of a performance incentive cited in the paragraph does not conform to the referenced plan. This ASPR states: "A contract with a performance incentive is one which incorporates an incentive to the contractor to surpass stated performance targets by providing for increases in fee or profit to the extent that such targets are surpassed and for decreases to the extent that such targets are not met." One of the variations of the referenced plan provides only for decreases from target fee for less than 100% performance.

4. ASPR 3-808.2. Weighted Guidelines Method

This ASPR specifies that the WG method of fee determination shall be used in all contracts where cost analysis is performed except as set forth in (b) below. Exception contained in paragraph (b)(2) states: "Other exceptions may be made in the negotiation of contracts presenting unusual pricing situations when specifically

authorized by the Head of a Procuring Activity. Such exceptions shall be justified in writing and authorized only in situations where the weighted guidelines method is determined to be unsuitable." The referenced plan includes the variation of pre-determining a target fee of 15% and therefore does not literally comply with the mechanics of a WG determination. The formula proposed makes compliance with WG unsuitable.

5. ASPR 3-808.3. Profit Objective

This paragraph specifies that: "Prior to the negotiation of a contract, change order, or contract modification, where cost analysis is undertaken, the negotiator shall develop a profit objective. The weighted guidelines method, if applicable, shall be used for developing this profit objective." The referenced plan specifies the same fee formula on changes as on the basic contract and therefore WG cannot be applied for the same reason as in paragraph 4, above.

6. ASPR 3-902.4. Changes to Make-or-Buy

This paragraph requires the make-or-buy program be incorporated in cost-reimbursement type contracts "except cost sharing contracts where the contractor's share is 25% or more, and CPIF contracts having a cost incentive which provides for a swing from target fee of at least \pm 3% and a contractor's overall share of cost of at least 10%." In the referenced plan there is no swing on the plus side from target fee if the target fee is at the maximum allowable (15%). However, since the plan contains a penalty of up to 9% for cost overrun there is a great incentive to control costs. This ASPR recognizes this possibility and states: "Some contracts may provide sufficient incentive for control of costs and not meet this test; In such cases, contracting officers should seek authorization to deviate from this regulation (see 1-109)." Deviation is required so that make-or-buy may be omitted.

7. ASPR 3-903.2. Subcontract Clauses for Cost-Reimbursement Contracts

This ASPR relaxes the consent requirements of the standard subcontracts clause in the \pm 3% situation. Deviation is required for the reasons given in paragraph 6, above, so that the relaxed requirement may be used.

8. ASPR 7-203. Required Clauses

This paragraph specifies mandatory clauses to be inserted in all cost-reimbursement type supply contracts. The clause set forth in 7-203.4b(i) again is applicable to a cost formula recognizing an increase in fee for a cost underrun. "The fee payable hereunder shall be the target fee increased by (insert contractor's participation) cents for every dollar by which the total allowable cost is less than the target cost of decreased by (insert contractor's participation) cents for every dollar by which the total allowable cost exceed the target cost." Deviation is required because the referenced plan proposes a penalty for overrun, but no reward for underrun.

9. ASPR 12-102.3. Payment for Overtime Premiums Clause

This ASPR states: "To prevent uneconomic use of overtime, at Government expense, this clause shall be included in all cost-reimbursement type contracts in excess of \$100,000, except cost-plus-incentive-fee contracts having a cost incentive which provides for a swing from target fee of at least + 3% and a contractor's share of cost of at least 10%." For the reasons stated in paragraph 6, above, deviation is required so that the overtime clause may be omitted.